

General Terms and conditions

General terms of delivery for products and services of the electronics industry

I. Scope of deliveries or services

1. Unless the parties have agreed otherwise, the mutual written declarations shall be binding for the scope of deliveries or services. If a contract has been concluded without the existence of such mutual declarations, either the supplier's written order confirmation, or in the absence thereof, the purchaser's written order shall be binding.

2. Protective equipment shall be supplied if required by law or if expressly agreed upon.

3. The supplier reserves his proprietary and copyrighted patent utilization rights in cost estimates, drawings and other documents without any restrictions; they shall only be made accessible to third parties after the supplier's prior approval. Drawings and other documents forming part of quotes shall be immediately returned upon request if the order is not placed with the supplier. Sentences 1 and 2 shall respectively apply to the purchaser's documents; however, these may be made accessible to such third parties to whom deliveries or services have been permissibly transferred to by the supplier.

II. Price

Prices shall be valid upon delivery without erection or assembly ex works excluding packaging, unless the parties have agreed otherwise.

III. Retention of title

1. The supplier shall retain title to the delivered or installed objects (goods subject to retention of title) until all claims against the purchaser under the business relationship have been completely fulfilled. Should the security in total exceed the sum of all secured claims by more than 20%, the supplier shall be obliged to surrender an equivalent part of the security interests upon the purchaser's request. The supplier shall have the right of choice regarding the surrender of various security interests.

2. The supplier shall be entitled to insure the goods subject to retention of title against theft, breakage, water and other damage at the customer's costs, unless the customer himself has verifiably taken out respective insurance. The customer shall be entitled to process or resell the goods subject to retention of title as far as this is done within the scope of orderly business operations; he shall not be entitled to pledge the goods subject to retention of title or to transfer them by way of security. The customer shall transfer all claims which he is entitled to in connection with the resale of claims as security to the supplier in advance (extended retention of title). Regardless thereof, he shall be entitled and obliged to collect claims from the resale as long as this authority is not revoked by the supplier. In case of processing with other goods not owned by the supplier by the customer, the supplier shall acquire joint title in the new object amounting to the invoice value of the goods subject to retention of title.

IV. Conditions of payment

1. Payments shall be effected free of charges to the supplier's designated account.

2. The purchaser shall only be entitled to offset against such claims which are uncontested or recognized by declaratory judgment. This exclusion of set-off shall not apply to costs for removal of defects or completion.

V. Period for deliveries or services

1. Unless the parties have agreed otherwise, the mutual written declarations shall be binding for the period for deliveries or services. Article I, 1, sentence 2 shall apply respectively.

2. Observance of the period shall be subject to the timely receipt of all documents to be supplied by the purchaser, required approvals, releases, timely clarification and approval of plans, compliance with agreed payment conditions and other obligations agreed upon between the parties with regard to the delivery. If these preconditions are not fulfilled in time, the period shall be extended respectively.

3. The period shall be deemed observed:

a) In case of an agreed obligation to be performed at the debtor's place of business, i.e. mere obligation to hand over the goods to a third-party supplier without obligation to erect or assemble the goods: When the operational consignment was shipped or collected within the agreed delivery or service period. If delivery is delayed for reasons attributable to the purchaser, the period shall be deemed observed through notification of the readiness for dispatch within the agreed period.

b) In case of delivery including erection or assembly: As soon as this was completed within the agreed period.

4. In cases where non-observance of the period for deliveries or services can be verifiably attributed to mobilization, war, riot, strike, lock-out or the occurrence of unforeseeable impediments, the period shall be extended appropriately.

5. If the supplier is in delay, the purchaser may – given he can show probable cause of incurred damage as a result thereof – claim compensation for each completed week of such delay amounting to 0.5% each, altogether however not exceeding 5% of the price for the part of the deliveries which could not be used to the purpose due to the delay.

6. Both claims for damages on part of the purchaser due to delay of delivery as well as claims for damages instead of performance, which exceed the limits stipulated in V. No. 5, shall be excluded in all cases of delayed delivery, even after expiry of any period allotted to the supplier for delivery. This shall not apply to cases of liability on the grounds of intent, gross negligence or injury to life, body or health. The purchaser shall only be entitled to withdraw from the contract within the scope of the legal regulations as far as the delivery delay is attributable to the supplier. The above regulations do not imply a change in the burden of proof to the purchaser's disadvantage.

7. If shipping or delivery is delayed upon the purchaser's request, storage charges amounting to 1/2 per cent of the invoice amount for each commenced month may be charged to the purchaser, beginning one month after notification of readiness for dispatch; storage charges shall be limited to 5 per cent, unless higher costs can be proven. The assertion of further additional expenditures caused by default of acceptance or damage caused by delay shall remain unaffected.

VI. Passing of risk

The risk shall pass to the purchaser, even if freight paid delivery was agreed:

1. In case of an agreed obligation to be performed at the debtor's place of business (according to V. 3 a)): When the operational consignment was shipped or collected. Packaging shall be subject to utmost care. Shipping shall be effected at the supplier's best discretion and in due care. Upon request and at the costs of the purchaser, the consignment shall be insured by the supplier against breakage, transport and fire damage.

2. In case of delivery including erection or assembly: Upon acceptance. If acceptance is not rejected due to major defects, the service shall be deemed accepted, upon expiry of 12 working days after written notification (also e-mail or fax sufficient) regarding completion of the service. Also the final invoice shall be considered a completion notification.

3. If shipping, delivery or the commencement or implementation of erection or assembly is delayed upon the purchaser's request or due to reasons attributable to him or if he is in default of acceptance for other reasons, the risk passes to the purchaser for the period of the delay; however, the supplier shall be obliged to effect the insurances demanded from him upon request and at the costs of the purchaser.

VII. Erection and assembly

A. Any type of erection and assembly shall be subject to the following conditions, unless otherwise agreed:

a) The purchaser shall at his costs ensure the following in a timely manner:

1. At the assembly site: Provision of sufficiently large, suitable, dry and lockable rooms for the storage of machine parts, equipment, materials, tools, etc., as well as appropriate working and common rooms for the assembly staff, including appropriate sanitary

arrangements according to circumstances; in other respects, the purchaser shall be obliged to take the usual and reasonable measures for protection of the contractor's property and the assembly staff at the construction site.

2. Provision of protective clothing and protective equipment which are required at the assembly site due to special circumstances and which are not sector-typical for the contractor.

a) Prior to commencement of the assembly works, the purchaser shall be obliged to provide all required information regarding the position of hidden electricity, gas, water lines or similar installations as well as all required statistical information unrequested.

b) Upon the agreed assembly date, all parts to be provided for commencement of the works by the purchaser shall be available on site and all masonry, carpentry and other preliminary works shall be advanced to such an extent prior to commencement of erection that erection or assembly can be commenced on the agreed assembly date and can be implemented without interruptions. In particular, the access paths and the erection and assembly site shall be levelled and cleared at floor height, the foundation set and dry, the foundation walls aligned and backfilled, the wall and ceiling plastering completed in case of indoor erection, specifically also doors and windows mounted.

c) If erection, assembly or commissioning is delayed due to circumstances, particularly at the construction site, through no fault of the supplier (delay of the creditor), the purchaser shall be obliged to bear the costs for waiting periods and further required travels on part of the erection or assembly staff in a reasonable scope.

d) The erection or assembly staff's working hours shall be confirmed by the purchaser on a weekly basis to the best of his knowledge. The purchaser shall be further obliged to promptly provide the erection or assembly staff with a written statement regarding completion of the erection or assembly works.

B. If the supplier was assigned with erection or assembly works based on individual billing, the following stipulations shall apply in addition to the stipulations under A:

1. The purchaser shall pay the charge rates for working hours and surcharges for excess and night work and for work on Sundays and public holidays, for works under aggravated circumstances as well as for planning and monitoring as agreed upon order placement.

2. Furthermore, the following costs shall be reimbursed separately, unless otherwise agreed:

a) Travel costs, costs for the transport of tools and personal baggage
b) Accommodation allowance for working hours as well as for Sundays and public holidays

VIII. Acceptance

1. Delivered goods shall be accepted by the purchaser, even if they show minor damage which have no impact on their serviceability.
2. Partial deliveries shall be permissible.

IX. Liability for defects

The supplier's liability for material defects shall be based on the legal regulations of the German Civil Code (BGB) with the following modifications:

1. Claims for defects shall expire within 12 months following the passing of risk. This shall exclude claims for damages based on injury to life, body or health and/or claims for damages based on damage caused by gross negligence or intent on part of the supplier. The legal limitation periods shall apply in this respect. Moreover, the legal limitation period shall remain applicable to cases under § 634a I No. 2 BGB and § 479 I BGB as well as to cases involving intent, fraudulent concealment of the defect and non-compliance with a guarantee of quality. The legal regulations governing suspension of statute of limitations, interruption and resumption of statute of limitations shall remain unaffected by the above regulation.

2. The supplier shall be immediately notified of any defects in writing.

3. Liability for defects shall not refer to natural wear, and furthermore not to damage occurring after the passing of risk as a result of faulty or negligent treatment, excessive use, unsuitable operating equipment, defective construction works, unsuitable building ground and such chemical, electrochemical or electrical influences which are not assumed under the contract.

4. Claims on part of the purchaser based on expenditures required for the purpose of supplementary performance, particularly transport, travel, working and material costs, shall be excluded insofar as an increase in expenditures is caused by the object's subsequent delivery to a different location than the purchaser's location, unless such relocation corresponds to the object's intended use.

5. Claims for damages on part of the purchaser based on material defects shall be excluded. This shall not apply to cases of fraudulent concealment of the defect, non-compliance with a guarantee of quality, injury to life, body or health and to intentional or grossly negligent neglect of duty on part of the supplier. The above regulations do not imply a change in the burden of proof to the purchaser's disadvantage. Any claims on part of the purchaser on the basis of material defects which exceed or differ from the claims specified in this IX shall be excluded.

6. The above items 1 to 5 shall respectively apply to such claims on part of the purchaser for subsequent improvement, replacement delivery or damages which have arisen as a result of suggestions or counsel given within the scope of the contract or as a result of the infringement of contractual accessory obligations.

X. Impossibility, contract adaptation

1. If delivery is impossible, the purchaser shall be entitled to claims for damages, unless such impossibility is not attributable to the supplier. However, such claims for damages on part of the purchaser shall be restricted to 5% of the value of that part of the delivery which cannot be used to the purpose due to such impossibility. This restriction shall not be apply to cases of liability on the grounds of intent, gross negligence or injury to life, body or health; the above regulations do not imply a change in the burden of proof to the purchaser's disadvantage. The purchaser's right to withdraw from the contract shall remain unaffected.

2. Insofar as events in the sense of V No. 4 should entail considerable changes to the economic significance or content of the delivery or should have considerable impact on the supplier's operations, the contract shall be appropriately adapted in good faith. Should this be economically unreasonable, the supplier shall be entitled to withdraw from the contract. The same shall apply to cases where required export approvals are not granted or cannot be used. If the supplier wants to exercise such right of withdrawal, he shall notify the purchaser accordingly immediately upon knowledge of the event's scope, even if an extension of the delivery period was initially agreed upon with the purchaser.

XI. Further claims for damages

1. Unless otherwise specified in the further regulations of these terms of delivery and payment, claims for damages on part of the purchaser, irrespective of the legal basis, particularly due to breach of duty under obligation and due to tort, shall be excluded.

2. This shall not apply to cases of liability resulting from:
a) Regulations according to the German Product Liability Act
b) Intent
c) Gross negligence on part of proprietors, legal representatives or executive staff
d) Fraudulent intent
e) Non-compliance with a warranted guarantee
f) Culpable injury to life, body or health
g) Culpable infringement of essential contractual obligations
However, claims for damages on grounds of the infringement of essential contractual obligations shall be limited to the contract-typical foreseeable damage, unless a further of the above-mentioned cases applies.

3. The above regulations do not imply a change in the burden of proof to the purchaser's disadvantage.

XII. Place of jurisdiction

1. Given the purchaser is a registered trader, the exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be the supplier's head office.

2. The contractual relations shall be subject to German law.

XIII. Completeness

No oral collateral agreements have been made.

Supplement to the general terms and conditions of inno-spec GmbH

Our Terms of Sale and Payment to which the customer declared his agreement at the time of placement of the order shall apply exclusively, including to future business transactions where they have not been referred to specifically but where they have been sent to the ordering party in the event of a previous order confirmed by us. Even where the order is placed in deviation from our Terms of Delivery and Payment, our Terms of Delivery and Payment shall apply, even when we do not state our disagreement. Deviations shall therefore be valid only when they have been expressly accepted by us in writing.

We are entitled to transfer the claims from our business relationships.

The contractual relationship is subject exclusively to German law, in particular the Bürgerliche Gesetzbuch (German Civil Code) and the Handelsgesetzbuch (German Commercial Code). The provision of the UN-CISG shall not apply.

The court of jurisdiction shall be where the company has its official address or Frankfurt am Main, as we choose.

Should the purchaser be in arrears with any payment obligations to us, all existing claims shall become immediately due.

For the assertion of the rights arising from the reserved property, no withdrawal from the contract is necessary, unless the debtor is a consumer.

All payments with debt-discharging effect are to be made exclusively to VR Factoring GmbH, Hauptstraße 131-137, 65760 Eschborn, to whom we have transferred out current and future claims arising from our business relationship. We have also transferred our reserved property to VR Factoring GmbH.

A set-off by the purchaser against counterclaims is excluded, unless the counterclaims are undisputed or have been established as final and absolute. The assertion of a right of retention by the purchaser is excluded, unless it is based on the same contractual relationship or the counterclaims are undisputed or have been established as final and absolute.

The following shall apply for the delivery of goods:

Until such time as all our accounts receivable from the customer have been settled in full, the goods delivered shall remain our property. The customer is entitled to sell these on in the normal course of business, provided he is not in default of payment. However, the customer may not pledge the goods subject of reservation of title, or assign them as collateral. Even now, the customer assigns to us as a precautionary measure his accounts receivable vis-a-vis his customers arising from the selling on of the reserved goods, as well as any claims of the customer regarding the reserved goods which arise from other legal grounds (including vis-a-vis third parties).

Any processing or alteration of the reserved goods by the customer shall always ensue on our behalf. If the reserved goods are processed along with other items which do not belong to us, we shall acquire co-ownership of the new item in the ratio in which the value of the reserved goods (invoice sum incl. VAT) relates to other combined or amalgamated items at the time of combination or amalgamation.

If the customer's item is to be regarded as the primary item, the customer shall assign pro rata co-ownership of the item to us. We accept this assignment. The ownership or co-ownership of the item shall be held for us by the customer.